

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

Date Purchased:

SUMMONS

-----X
RICARDO VERA,

Plaintiff,

Plaintiff designates New York
County as the place of trial.

-against-

The basis of venue is:
Place of Incident

THE CITY OF NEW YORK,

Defendant.

Plaintiff resides at:
2514 Tratman Avenue
County of Bronx

-----X

To the above named Defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: BAYSIDE, NY
April 3, 2014



JOSEPH D. LEVY

Bruce Montague & Partners
Attorneys for Plaintiff

RICARDO VERA
212-45 26th Avenue
Suite #7
Bayside, NY 11360
718-279-7555

TO: THE CITY OF NEW YORK
100 Church Street
New York, NY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
RICARDO VERA,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.
-----X

Index No.:

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COMPLAINT

Plaintiff, by his attorneys, **BRUCE MONTAGUE & PARTNERS**, complaining of the Defendant, respectfully alleges, upon information and belief, as follows:

1. That at the time of the commencement of this action, Plaintiff **RICARDO VERA** is a resident of the County of Bronx, City and State of New York.
2. That the cause of action alleged herein arose in the County of New York, City and State of New York.
3. That this action falls within one or more of the exceptions set forth in CPLR §1602.
4. That at all times herein mentioned, Defendant **THE CITY OF NEW YORK** was, and still is, a domestic municipal corporation, duly organized and existing under and by virtue of the laws of the State of New York.
5. That prior hereto, on or about June 5, 2013, and within the time prescribed by law, Plaintiff filed and duly served a sworn Notice of Claim upon Defendant **THE CITY OF NEW YORK**, pursuant to Section 50-e of the General Municipal Law.

6. That more than thirty (30) days have elapsed since the Defendant **THE CITY OF NEW YORK** has been duly served with said Notice of Claim and that adjustment or payment thereof has been neglected or refused.
7. That this action is being commenced within one year and ninety days after accrual of this cause of action, or within the time allowed by law.

AS AND FOR A FIRST CAUSE OF ACTION

8. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs “1” through “7” as though fully set forth and pleaded at length herein.
9. That on or about April 19, 2013, at approximately 10:30 PM, Plaintiff **RICARDO VERA** was a lawful pedestrian at or near the location of 1370 St. Nicholas Avenue, in the County of New York, City and State of New York.
10. That Plaintiff was a resident at the aforesaid location.
11. That on or about April 19, 2013, at approximately 10:30 PM, Plaintiff was attempting to enter his premises at the aforesaid location.
12. That at said date and time, Plaintiff was not engaged in any criminal conduct whatsoever.
13. That at said date, time, and location, Plaintiff was unlawfully stopped by officers of the New York City Police Department.
14. That said officers were possibly operating a New York City Police Department motor vehicle bearing New York State registration number DZV3356.
15. That said officers failed to properly identify themselves.
16. That said officers violently struck Plaintiff.

17. That said officers violently struck Plaintiff without any provocation whatsoever.
18. That said officers violently struck Plaintiff while in the course and scope of their employment with Defendant **THE CITY OF NEW YORK**.
19. That Defendant **THE CITY OF NEW YORK**, by its agents, servants, and/or employees, committed shocking, harmful, and offensive conduct.
20. That by reason of the foregoing, Plaintiff has sustained great pain, agony, injury, suffering, disability, trauma, as well as mental anguish and emotional distress.
21. That as a result of the foregoing, Plaintiff has suffered damages for pain and suffering, humiliation, emotional and physical distress, fright and mental anguish.
22. That these damages are in no way mitigated by any acts or provocation by Plaintiff.
23. That Plaintiff did not ratify or otherwise condone Defendant's conduct in any manner whatsoever.
24. That Defendant intentionally caused Plaintiff to be in a position where said Defendant caused the aforementioned harmful acts which constituted harmful and offensive conduct.
25. That Defendant's conduct was completely unauthorized by Plaintiff.
26. That Defendant had the ability to and did bring about the aforementioned harmful and offensive conduct.
27. That Defendant performed the aforementioned acts voluntarily with a desire to bring about the aforementioned menacing, harmful and offensive result.
28. That Defendant performed the act knowing, with substantial certainty, that the aforementioned menacing, harmful and offensive result would follow.

29. That the foregoing constituted an assault upon the Plaintiff for which defendant is liable for damages.
30. That as a result of the foregoing, Defendant **THE CITY OF NEW YORK** is liable to Plaintiff for assault.
31. That by reason of the foregoing, Plaintiff has been damaged in a sum of money having a present value that exceeds the jurisdictional limits of all lower Courts.
32. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION

33. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs “1” through “32” as though fully set forth and pleaded at length herein.
34. That Defendant, by its agents, servants, and/or employees had actual contact with the Plaintiff in that said officers intentionally struck and/or otherwise contacted Plaintiff without Plaintiff’s consent.
35. That said officers’ conduct constituted an offensive bodily contact.
36. That said officers intended to make an unauthorized bodily contact with the Plaintiff.
37. That said officers committed the aforementioned offensive bodily contact for the purpose of harming Plaintiff.
38. That said officers conduct had the effect of harming Plaintiff.
39. That said officers conduct would offend the personal dignity of the ordinary person.
40. That the aforementioned contact and conduct committed by said officers was unwarranted by social usages prevalent at the applicable place and time.

41. That said officers had the intent to cause a bodily contact that Plaintiff found offensive.
42. That said officers had the intent to cause a bodily contact that any reasonable person would find offensive.
43. That said officers were employees of Defendant **THE CITY OF NEW YORK** at the time they engaged in said behavior.
44. That said officers committed and engaged in said behavior against Plaintiff while in the course and scope of their employment with Defendant **THE CITY OF NEW YORK**.
45. That as a result of the foregoing, Defendant is liable to Plaintiff for battery.
46. That the foregoing constituted a battery upon the Plaintiff for which Defendants are liable for damages.
47. That by reason of the foregoing, Plaintiff has been damaged in an amount exceeding the limits of all lower Courts which would otherwise have jurisdiction of this matter.
48. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION

49. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "48" as though fully set forth and pleaded at length herein.
50. That Defendant **THE CITY OF NEW YORK**, by its agents, servants, and/or employees deprived Plaintiff of his Civil Rights.

51. That Defendant **THE CITY OF NEW YORK**, by its agents, servants, and/or employees violated Plaintiff's Civil Rights and/or Civil Liberties under color of law.
52. That Defendant **THE CITY OF NEW YORK**, by its agents, servants, and/or employees committed an act of police brutality against Plaintiff.
53. That by reason of the foregoing, Plaintiff has been damaged in an amount exceeding the limits of all lower Courts which would otherwise have jurisdiction of this matter.
54. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION

55. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "54" as though fully set forth and pleaded at length herein.
56. That Defendant's conduct toward Plaintiff was in a manner so shocking and outrageous that it exceeds all reasonable bounds of decency.
57. That Defendant's conduct toward Plaintiff was in a manner so shocking and outrageous that it exceeds the reasonable bounds of decency of what the average person in the community would tolerate.
58. That Plaintiff has suffered emotional distress as a result of the aforementioned occurrence.
59. That Plaintiff's emotional distress as a result of the aforementioned occurrence is of such intensity and duration that no reasonable person should be expected to endure it.
60. That said officers performed the aforementioned menacing, offensive, shocking and outrageous acts with the desire to cause Plaintiff severe emotional distress.

61. That said officers performed the aforementioned menacing, offensive, shocking and outrageous acts which had the effect of causing Plaintiff severe emotional distress.
62. That the circumstances known to said officers made it substantially certain that Plaintiff would experience severe emotional distress.
63. That the circumstances known to said officers made it substantially certain that Plaintiff would experience severe emotional distress.
64. That said officers committed and engaged in said behavior against Plaintiff while in the course and scope of their employment with Defendant **THE CITY OF NEW YORK**.
65. That said officers were employees of Defendant **THE CITY OF NEW YORK** at the time they engaged in said behavior.
66. That said officers acted recklessly with utter disregard of the consequences that would follow in the form of severe emotional distress suffered by Plaintiff.
67. That a causal relationship exists between Defendant's conduct and Plaintiff's severe emotional distress.
68. That as a result of the foregoing, Defendant is liable to Plaintiff for intentional infliction of emotional distress.
69. That as a result of the foregoing, Defendant is liable to Plaintiff for outrageous conduct causing emotional distress.
70. That by reason of the foregoing, Defendant is liable for damages.
71. That by reason of the foregoing, Plaintiff has been damaged in an amount exceeding the limits of all lower Courts which would otherwise have jurisdiction of this matter.

72. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION

73. Plaintiff repeats, reiterates, and realleges each and every allegation contained in Paragraphs “1” through “72” inclusive as though fully set forth and pleaded at length herein.

74. The above mentioned occurrence and the results thereof, were caused by the negligence, carelessness and recklessness of the Defendant, its agents, servants, employees and/or licensees.

75. The above-mentioned occurrence, and the results thereof, were caused wholly and solely by the negligence, carelessness, and recklessness of Defendant, their agents, servants, employees, and/or licensees in negligently, carelessly, and recklessly allowing said officers to be employed; in negligently, carelessly, and recklessly hiring and retaining said officers; in negligently, carelessly, and recklessly supervising said officers; in negligently employing said officers; in failing to properly protect lawful citizens; in failing to properly and/or adequately supervise, train and control said officers; in failing to properly investigate said officers throughout their employment; in employing a dangerous and threatening person; in failing to ensure that said officers did not pose a threat or danger to lawful persons thereat; in allowing said officers to remain employed so that they became a danger to Plaintiff; in failing to provide a reasonably safe environment; in failing to take adequate measures to diminish the risk posed by said officers; in having negligent hiring practices; in

knowingly having employees with violent propensities; in unlawfully establishing policy or protocol where this incident is foreseeable; in failing to prevent said incident; in failing to prevent said incident despite the fact that such incident was foreseeable; and in being otherwise negligent, careless, reckless, and grossly negligent in the premises under the circumstances then and there prevailing.

76. That Defendant, their agents, servants, licensees, and/or employees had actual notice of the aforesaid dangerous and hazardous condition(s) existing thereat prior to the occurrence alleged herein.
77. That Defendants, their agents, servants, licensees, and/or employees had constructive notice of the aforesaid dangerous and hazardous condition(s) existing thereat for same had existed for a long period of time prior to the occurrence alleged herein.
78. That Defendants, their agents, servants, licensees, and/or employees created the aforesaid dangerous and hazardous condition(s) existing thereat prior to the occurrence alleged herein by retaining a dangerous employee despite knowledge of same.
79. That as a result of the aforesaid, Plaintiff was caused to sustain serious injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries Plaintiff has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, Plaintiff was, and will continue to be, rendered unable to perform Plaintiff's normal activities and duties and has sustained a resultant loss therefrom.
80. That as a result of the foregoing, Defendant is liable to Plaintiff in negligence.

81. That by reason of the foregoing, Plaintiff has been damaged in a sum of money having a present value that exceeds the limits of all lower Courts which would otherwise have jurisdiction of this matter.

82. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION

83. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “82” inclusive, as though fully set forth and pleaded at length herein.

84. That the aforesaid actions by Defendant constituted behavior that was and is shocking and outrageous.

85. That Defendant’s acts were committed with malice.

86. That Defendant’s acts were committed with actual malice.

87. That Defendant’s acts were committed so recklessly and wantonly as to permit the inference of malice.

88. That Defendant had actual notice that said officers behaved with similar malice prior to the occurrence alleged herein.

89. That Defendant had constructive notice that said officers behaved with similar malice prior to the occurrence alleged herein for they had exhibited such behavior for a long period of time prior to this occurrence.

90. That as a result of the foregoing, Defendant should have punitive damages assessed.

91. That by reason of the foregoing, punitive damages against the Defendant should be awarded to the Plaintiff

92. That by reason of the foregoing, Plaintiff has been damaged in a sum of money having a greater value that exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter.

93. That by reason of the foregoing, Plaintiff has been damaged in the amount of TWO MILLION (\$2,000,000.00) DOLLARS.

WHEREFORE, Plaintiff **RICARDO VERA** demands judgment against the Defendant in the First Cause of Action in an amount of value which exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter and/or TWO MILLION (\$2,000,000.00) DOLLARS; and Plaintiff demands judgment against the Defendants in the Second Cause of Action in an amount of value which exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter and/or TWO MILLION (\$2,000,000.00) DOLLARS; and Plaintiff demands judgment against the Defendants in the Third Cause of Action in an amount of value which exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter and/or TWO MILLION (\$2,000,000.00) DOLLARS; and Plaintiff demands judgment against the Defendants in the Fourth Cause of Action in an amount of value which exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter and/or TWO MILLION (\$2,000,000.00) DOLLARS; and Plaintiff demands judgment against the Defendant in the Fifth Cause of Action in an amount of value which exceeds the limits of all lower courts which would otherwise have jurisdiction of this matter and/or TWO MILLION (\$2,000,000.00) DOLLARS; together with the costs and disbursements of this action.

Dated: Bayside, NY
April 3, 2014

Yours, etc.

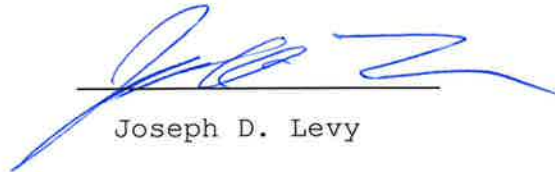


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STATE OF NEW YORK)
 :ss.:
COUNTY OF QUEENS)

I, the undersigned attorney admitted to practice in the courts of the State of New York state that I am a member of Bruce Montague & Partners the attorney of record for the plaintiff(s) in the action within; certify that, to the best of my knowledge or belief, the matter(s) contained in the attached documents(s) are not frivolous.

Dated: April 3, 2014



Joseph D. Levy

Index No.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RICARDO VERA

Plaintiff(s),

-against-

THE CITY OF NEW YORK

Defendant(s).

SUMMONS AND COMPLAINT

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